STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM FLANAGAIN and KAREN FLANAGAIN,

Plaintiffs-Appellants,

v

CITY OF HIGHLAND PARK and MAYOR OF HIGHLAND PARK,

Defendants-Appellees,

and

HIGHLAND PARK HOUSING COMMISSION, RALPH HOLCOMB, MARGARIE LAMB, SYLVIA JEAN PUGH, ARTHUR TURNER, and JUANITA PERKINS,

Defendants.

UNPUBLISHED
February 14, 2003

No. 235218
Wayne Circuit Court
LC No. 98-840377-CZ

Before: Saad, P.J., and Zahra and Schuette, JJ.

PER CURIAM.

Plaintiffs[1] appeal as of right an order granting defendants' motion for a directed verdict. This case arose when defendant Highland Park Housing Commission dismissed plaintiff from his position as executive director of the commission. We affirm.

Plaintiff argues that the trial court erred in directing a verdict for defendants on his claims that his demotion violated the Whistleblowers' Protection Act (WPA), MCL 15.361, *et seq*., and that the mayor of Highland Park intentionally interfered with his business relationship with the commission. We review motions for directed verdict de novo, examining the testimony and all

[1] Because Karen Flanagain's only claim is derivative, for ease of reference, the singular term "plaintiff" refers to William Flanagain throughout this opinion.

legitimate inferences that may be drawn from it in the light most favorable to the plaintiff. *Meagher v Wayne State Univ*, 222 Mich App 700, 708; 565 NW2d 4011 (1997).

The WPA provides, in relevant part:

> An employer shall not discharge, threaten, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee . . . reports or is about to report, verbally or in writing, a violation or a suspected violation of a law or regulation or rule promulgated pursuant to law of this state, a political subdivision of this state, or the United States to a public body, unless the employee knows that the report is false[.] [MCL 15.361.]

To establish a prima facie case under the WPA, plaintiff was required to show (1) he was engaged in protected activity as defined by the WPA; (2) he was discharged; and (3) there was a causal connection between the protected activity and the discharge. *Shallal v Catholic Social Services*, 455 Mich 604, 610; 566 NW2d 571 (1997).

Although plaintiff arguably met the first two elements by showing that he reported an illegal, although apparently inadvertent, sale of public housing to a private developer and showing that he was subsequently demoted, we agree with the trial court's holding that plaintiff failed to show a causal connection between his protected activities and his demotion. Plaintiff's evidence consisted of the following facts: the mayor was upset about the mistaken sale of commission-owned housing to a private developer as well as the threat that he or the city might be sued; the mayor had refused to meet with plaintiff or return his phone calls; the mayor met with the housing commissioners over the summer; the mayor may have reminded the commissioners they had the authority to remove plaintiff from office; and plaintiff was subsequently demoted.

However, viewing this evidence in a light most favorable to plaintiff, we cannot legitimately infer that the commission demoted plaintiff because of his protected activities, either on its own initiative or at the mayor's behest. This is particularly true in light of the commissioners' testimony that their decision to demote was based on plaintiff's continued poor performance rather than input from the mayor, the undisputed evidence of the commission's ongoing dissatisfaction with plaintiff's performance as director, plaintiff's own possible role in failing to respond to the city's request that he examine the list of houses it planned to sell, and the fact that the illegal housing sale was an error that was quickly corrected rather than a deliberate attempt to violate federal law. Accordingly, the trial court properly granted defendants' motion for a directed verdict on plaintiff's WPA claim.

Plaintiff's claim of tortious interference against the mayor of Highland Park was similarly unsupported. To establish a claim of tortious interference with a business relationship, a plaintiff must prove four elements: (1) the existence of a valid business relationship or expectancy; (2) knowledge of the relationship or expectancy on the part of the defendant; (3) an intentional interference inducing or causing a breach or termination of the relationship or expectancy; and (4) resultant damage to plaintiff. *Lakeshore Community Hosp v Perry*, 212 Mich App 396, 401; 538 NW2d 24 (1995).

Assuming arguendo that plaintiff had a valid business relationship expectancy in light of the commission's stated intention to remove plaintiff unless his performance improved, no evidence showed that the mayor induced or caused the commission to demote plaintiff and, significantly, the commissioners' testimony was to the contrary. Although some commissioner testimony indicated that the mayor reminded commission members they had the authority to remove plaintiff from office, the statement was in response to the commissioners' previously stated desire to do so based on plaintiff's poor performance rather than his reporting the illegal housing sales to HUD. Therefore, because the evidence viewed in a light most favorable to plaintiff clearly failed to establish an intentional interference which caused his termination from the commission, the trial court correctly granted defendants' motion for a directed verdict.

Because plaintiff's principal claims were not viable, the trial court properly dismissed the derivative loss of consortium claim. *Moss v Pacquing*, 183 Mich App 574, 583; 455 NW2d 339 (1990).

Affirmed.

/s/ Henry William Saad
/s/ Brian K. Zahra
/s/ Bill Schuette